

Town of Strasburg

Board of Zoning Appeals

Strasburg Town Hall
174 West King Street

Tuesday, January 24, 2017
5:30 p.m.

BZA Members:

Kelly Brown
Conly Crabill
Mary Shull
Eunice Terndrup

Staff Contact:
Wyatt Pearson, Planning & Zoning Administrator



Agenda

Roll Call – *Amy Keller, Clerk of Council*

Public Hearing:

1. Variance Application: Homewood Retirement Centers

Description: Homewood is requesting a variance for the setback requirements to allow for the existing homes to be subdivided and sold off.

Action Item:

1. Variance Application: Homewood Retirement Centers

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Adjournment



Town of Strasburg

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January 24th, 2017 Board of Zoning Appeals, Variance Application Staff Report

**245 Hite Lane
Homewood at the Shenandoah Valley
Tax Map # 025A503 001-018
Board of Zoning Appeals
Heard January 24th, 2017**

Project information	
Applicant:	DICE Engineering, PLC (Dennie Dunlap)
Owners:	Homewood at the Shenandoah Valley
Location:	The existing homes on Signal Knob Cottage Drive 88-146 and 64 Homewood Way.
Land Area:	Approximately 2.83 Acres
Zoning:	Medium Density Residential
Land Use:	Duplex-Residential
Adjacent Zoning:	Highway Commercial
Adjacent Land Uses:	Commercial Uses to the North and Northwest. Park/Preservation uses to the Northeast, East, and South.

Recommendation:

Staff recommends approving an amended request to allow for a Front Yard Setback of 15', Side Yard Setback of 5', and a Rear Yard Setback of 10'. This would allow for this individual sale of each unit, while ensuring that applications for accessory structures do not intrude upon adjacent properties/streets.

(See full opinion at end of report)

Description:

Staff received a variance application from DICE Engineering on December 22nd, 2016. Prior to receiving this application, Mr. Dunlap (DICE Engineering) had submitted and received an approved Sketch Plat for the Homewood at the Shenandoah Valley Development (Homewood), from the Strasburg Planning Commission. Following the Planning

Commission meeting on the Sketch Plat, staff advised Mr. Dunlap that in order to proceed further with the subdivision application, he would need to acquire a variance or rezoning to reconcile the lack of adequate setbacks between the existing duplex structures. These structures were constructed under the intention of single ownership by Homewood, and therefore were not required to be setback the typical 10ft between each side lot line. Homewood has now decided to subdivide and sell off these Duplexes as individual lots. Below is the applicant’s specific request.

“Owner requests a variance for reduced setbacks to UDO Section 3.10.2(A) Lot development Standards in the MDR District for parcel 16((A))-162. The subject parcel currently contains twelve (12) existing residential units that were constructed under a previous plan of development for a Continuing Care Retirement Community with a single lot and owner. Owner desires to subdivide these 12 units for resale, but lots do not conform to dimensional standards of the MDR District. Therefore, owner requests reduced setbacks of 15’ (front), 0’ (side), and 5’ (rear) to permit subdivision of these 12 units.”

Request and Layout:

The applicant is requesting to reduce the setbacks in order to allow for the subdivision and sale of existing duplex style homes individually. See table below for request comparison.

Yard Side	Medium Density Residential	Applicant Request	Staff Suggestion
Front Yard Setback	25’	15’	15’
Side Yard Setback	10’	0’	5’
Rear Yard Setback	25’	5’	10’

Attached to this report is an exhibit showing how the new lot lines would fall between the duplexes that are physically attached, and those with space between them.

Relevant Code Sections:

2.18.4 Findings and Conditions

Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in Code of Virginia § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in Code of Virginia § 15.2-2201 and the criteria set out in this section

A. Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance.

- B. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance.
- C. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.
- D. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.
- E. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.
- F. The relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of Code of Virginia § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of Code of Virginia § 15.2-2286 at the time of the filing of the variance application.
- G. No variance shall be considered except after notice and hearing as required by § 15.2-2204.

Staff Opinion:

Land use case law in Virginia does not directly address this particular situation currently. Upon first review it seems as though this application would not satisfy the requirement set forth in 2.18.4 B. "...any hardship was not created by the applicant for the variance." One could argue that the applicant did in fact place themselves in this hardship on account of the current structures being constructed under their ownership and instruction. It is my opinion, that they proceeded in good faith under the assumption that their development of the property would be completed in such a way that single ownership and operation would be profitable for their organization. A variety of outside factors undermined the good faith pursuit, and created the hardship that they are now attempting to remedy.

With the ownership designed as a condominium type agreement, and the land between the structures being open space, compliance with the setbacks is possible. However, Homewood's change to individual ownership with minimized common space requires the creation of new lot lines that create the need for a variance. Basically, in order to provide the existing structures with equality to the other structures in the zoning district, and planned for the adjacent roads, new lot lines (and the resulting exemption regarding setbacks) are necessary.

Attachments:
Variance Exhibit

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